Security Council

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New York

President:	Mr. Fowler	(Canada)
Members:	Argentina	Mr. Petrella
	Bahrain	Mr. Buallay
	Brazil	Mr. Valle
	China	Mr. Qin Huasun
	France	Mr. Dejammet
	Gabon	Mr. Dangue Réwaka
	Gambia	Mr. Touray
	Malaysia	Mr. Hasmy
	Namibia	Mr. Andjaba
	Netherlands	Mr. van Walsum
	Russian Federation	Mr. Fedotov
	Slovenia	Mr. Türk
	United Kingdom of Great Britain and Northern Ireland	Sir Jeremy Greenstock
	United States of America	Mr. Burleigh

Agenda

Protection of civilians in armed conflict

99-85137 (E)

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The meeting was resumed at 3.15 p.m.

The President (*interpretation from French*): The next speaker inscribed on my list is the representative of Azerbaijan. I invite him to take a seat at the Council table and to make his statement.

Mr. Kouliev (Azerbaijan) (*interpretation from Russian*): First of all, we would like to express our appreciation, Mr. President, for your important initiative to convene an open debate on a very acute and pressing matter: the protection of civilians in armed conflict. This topic undoubtedly represents the fundamental challenge facing the international community and in particular the Security Council.

On 12 February, we had an opportunity to listen to the thoughtful and illuminating briefings by Ms. Carol Bellamy, Executive Director of the United Nations Children's Fund (UNICEF), Mr. Olara Otunnu, Special Representative of the Secretary-General for Children and Armed Conflict and Mr. Cornelius Sommaruga, President of the International Committee of the Red Cross. The Council members also expressed their views and ideas on the matter. On the same day, the Council adopted a presidential statement that we believe will have far-reaching significance. The Azerbaijani delegation welcomes and fully supports the Council's request to the Secretary-General to submit a report containing concrete recommendations to the Council by September 1999 on ways in which the Council, acting within its sphere of responsibility, could improve the physical and legal level of protection provided for civilians in situations of armed conflict.

The issue under discussion today has, in our view, at least two levels. Therefore, it must be adequately addressed. The first level concerns the problem of the protection of civilians in terms of their physical protection and their physical survival, which needs to be dealt with immediately by the Security Council, within its mandate. The second level is a complex one that involves a specific mechanism consisting of various interrelated elements, ranging from the body of international humanitarian norms and provisions to the agencies authorized to ensure the rights of the civilian population in situations of armed conflict and to provide humanitarian assistance for them, and so on.

During the previous meeting of the Council on this subject, almost all speakers concurred that in contemporary conflicts civilian populations are being deliberately and indiscriminately targeted and subjected to violence and physical destruction. The Azerbaijani people have experienced all this, having been exposed as they were to external aggression. It is a sad coincidence that the Security Council is taking up the issue of the protection of civilians in armed conflict at this time, when seven years ago, on the night of 25 February and in the early hours of 26 February 1992, the Armenian armed forces, with the assistance of the 366th motor-rifle regiment of the former Union of Soviet Socialist Republics, invaded the Azerbaijani town of Khojaly. Having razed the town to the ground, they killed hundreds of innocent people, not even sparing women, children or the elderly. Thousands were imprisoned and subjected to brutal violence and humiliation. In our country 26 February was proclaimed the day of the Khojaly genocide and a day of national mourning in Azerbaijan.

To prevent the reoccurrence of a Khojaly-type tragedy anywhere at any time, the Security Council must, in a timely and adequate manner, use its full authority, as enshrined in the Charter, and to use means ranging from political and diplomatic to military.

We fully support Ambassador Türk of Slovenia, who said,

> "The basic aim of United Nations humanitarian action should be human security, with the key to security being physical rather than only legal protection." *(S/PV.3977, p. 11)*

Providing human security is one of the main responsibilities of the Security Council. In this connection, conflict prevention assumes ever greater importance. This is the best way to protect the civilian population. Unfortunately, the Council has had to deal more frequently with open conflicts.

The main method, if it can be put that way, of conducting so-called combat operations during contemporary armed conflicts is ethnic cleansing, whereby a part of the territory of a sovereign State is cleansed of its local population, who, in turn, become displaced persons and virtual refugees on their own soil. The scale of ethnic cleansing can vary. In Azerbaijan, it involves approximately 20 per cent of the occupied territories and about 1 million refugees and displaced persons. I would like to point out that ethnic cleansing allows invaders to ignore the Geneva Conventions, thereby actually resorting to Stalin's ominous "joke": "No man — no problem".

Today, throughout the world, this category of the population includes more than 20 million people who urgently need adequate attention from the international community. Mr. Otunnu, in his statement and further remarks, particularly drew attention to the fact that the most vulnerable group of an affected population is displaced persons and that there is no agreed framework for providing protection for these people. There are arrangements for providing relief, but there is no framework for providing actual protection to these populations. Our delegation believes that it would be entirely appropriate for Mr. Francis Deng, Special Representative of the Secretary-General for Internally Displaced Persons, to participate and to speak in the debate.

In discussing the issue of civilians in armed conflict, we must devote particular attention to the question of children as victims of conflict, either as immediate instruments of war or as the recipients of physical, emotional or psychological traumas and injuries. The statements made by Ms. Bellamy and Mr. Otunnu at the previous meeting of the Council contained new and constructive ideas and practical proposals. We are convinced that these could make an important contribution to addressing the matter under consideration. Azerbaijan, as a member of the Executive Board of UNICEF, attaches great importance to the problems of children and armed conflict as well as to alleviating the effects of armed conflicts on children. It is actively involved in elaborating various rehabilitation programmes under the auspices of UNICEF.

In this respect, we are particularly concerned by illicit transfers of arms into conflict zones, and we must naturally redouble our efforts to curb this process. It is worth recalling, as underlined by the Secretary-General in his report on Africa, that halting the flow of arms to areas of chronic instability is an essential element of any strategy to reduce the level of brutality against civilian and humanitarian workers. We share the view of Ambassador Sergey Lavrov of Russia that we need to highlight the task of curbing arms flows into conflict areas, because this has a direct impact on better enabling humanitarian agencies to assist refugees and to perform their other tasks.

In this context, violations of arms embargoes imposed by the Council give rise to great concern. If the Council's sanctions are being ignored, then what reaction could be expected to the Council's appeals not to transfer arms into conflict areas? We should at least concur here with the Secretary-General when he states in his report on Africa that exporting countries have a responsibility to exercise restraint, particularly with respect to the export of weapons into zones of conflicts or tension.

Last, but not least, it is alarming that the gap between the norms of humanitarian law and their application has never been wider. The task of ensuring their application by all actors without exception is therefore a matter of top priority. There is no doubt that the Security Council has the potential constructively to contribute to strengthening international humanitarian law and ensuring its application. We believe that the General Assembly and the Economic and Social Council must also address this complex question. Given the nature and scale of the problem, we believe that it would be appropriate to include the question of the protection of civilians in armed conflict on the agenda of the Millennium Assembly.

The President: The next speaker inscribed on my list is the representative of Egypt. I invite him to take a seat at the Council table.

If I may be somewhat presumptuous, I assume that at the conclusion of a long and distinguished diplomatic career, this may be the last occasion that Ambassador Elaraby will have to address the Council, where, of course, he so ably represented his country only recently. I believe that I can say, on behalf of the Council, that we shall all miss his company and wise counsel.

I give the floor to the representative of Egypt.

Mr. Elaraby (Egypt): Thank you, Mr. President, for your very kind words, which I greatly appreciate.

(spoke in Arabic)

It is my pleasure also to welcome the initiative taken by your country, Canada, to convene this extremely important meeting on the protection of civilians in armed conflict and to hold the open meeting of 12 February under the presidency of the Minister for Foreign Affairs of Canada.

I should like also to thank you, Sir, for giving States that are not members of the Security Council the opportunity to hear the statements made by Mr. Vieira de Mello, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator; Mr. Cornelio Sommaruga, Chairman of the International Committee of the Red Cross; Ms. Bellamy, Executive Director of the

United Nations Children's Fund; and Mr. Olara Otunnu, Special Representative of the Secretary-General for Children and Armed Conflict.

There is no doubt that the issues that have been raised concern us all. In this connection, I am pleased today to comment on the views that drew Egypt's attention at the two meetings at which we heard those statements.

Let me at the outset point out that it is important that the Council, when seized with such an important and urgent question, not get bogged down in pure theory to the detriment of action. The Council should handle this question with full respect for the delicate balance of the roles assigned to various organs under the Charter of the United Nations, in particular the role of the General Assembly in considering the general principles of cooperation to eliminate human suffering, including protection of civilians in armed conflict.

The delegation of Egypt believes that in the light of the nature and scope of this issue, it would be desirable to inscribe this item on the agenda of the General Assembly as well as that of the Economic and Social Council, in order that more comprehensive discussions be held to supplement Canada's wise decision to convene this Council meeting.

The Council's responsibility, as I understand it, is based on its competence under the Charter, including the complementarity between its work and that of humanitarian agencies — work that now exceeds the capacities of the United Nations, including the Security Council.

As this century draws to a close and we prepare to enter a new millennium, and in a year when the world is commemorating the hundredth anniversary of the First International Peace Conference at The Hague and the fiftieth anniversary of the four Geneva Conventions, it is regrettable that we should witness an increase in the number of civilians who are victims of armed conflict. Indeed, civilians represent 75 to 80 per cent of such victims, as seen in Sierra Leone, Rwanda, Liberia, Kosovo, the Great Lakes region and in other areas.

This is reprehensible and shameful regardless of whether civilians are deliberately targeted or become the incidental victims of collateral damage. However, this phenomenon has causes and roots, mainly the fact that the Council has not been able to fulfil its functions because of political considerations. The Security Council should therefore assume its responsibility to find radical solutions to the conflicts that jeopardize international peace and security, and resolve them in an integrated and global manner by analysing their causes. This will prevent the escalation of violence among the combatants and avert serious humanitarian consequences such as the displacement or expulsion of populations or their exodus to neighbouring countries, which would bring further suffering to the civilian populations and lead to an unending vicious circle.

We reiterate this to emphasize the importance of proceeding with concrete action and not limiting ourselves to rehashing legal issues.

There is clearly an unprecedented gap between the norms of international humanitarian law and their actual implementation.

The issue, however, is not to revise such rules, which will evolve organically and must always be scrupulously implemented. Instead, we should ensure the implementation of obligations agreed by the international community, as represented by the 188 States parties to the 1949 Conventions, which are committed under common article 1 to ensuring respect for the norms of the Conventions in all circumstances. We must all ensure that there is no conflict between the application of international humanitarian law and the need to observe and implement the provisions of the Charter. It is essential, not to allow the implementation of international humanitarian law or the practical considerations of humanitarian protection to lead to contraventions of the Charter.

We welcome the Council's wise reaction to situations in which civilians are targeted and humanitarian assistance is deliberately hindered. Many current conflicts are taking place within rather than between States. We must therefore determine the extent to which the United Nations can actually intervene to settle such conflicts. The international community should preserve the fundamental characteristic of States — their sovereignty — which is the very foundation of contemporary international law and a key principle of the Charter. This, of course, is also addressed in paragraph 7 of Article 2, which defines the relationship between matters which are essentially within the domestic jurisdiction of any State and the enforcement measures the Council may take when international peace and security are threatened.

The international community should also ensure that the Council respect the fundamental criteria laid down in the Charter on the use of force solely under Chapter VII. Article 39 provides for the use force only when the Security Council determines the existence of any threat to the peace, breach of the peace, or act of aggression and makes recommendations or decides what measures shall be taken in accordance with Articles 41 and 42. There is a distinction to be drawn between the rules of international law on the protection of civilians in international conflicts, on the one hand, and in internal conflicts, on the other. This distinction can be based on legal as well as practical considerations.

I cannot fail here to express my full satisfaction at the fact that certain members of the Security Council, including permanent members, have mentioned the need for the Council to act within the limits of its competence. We support their appeal to ensure that different yardsticks not be used in the area of human rights. The international community must grant equal attention to all situations in which there is loss of life or egregious violation of human rights, wherever they may occur and without bias for the political considerations of some members of the Council, particularly the permanent members, over the general concerns of the Council and the Members of the United Nations as a whole. Thus, the Council must accord equal attention to the peoples of the Balkans, Palestine and other occupied Arab territories where there have been displacements, isolation, demographic changes or any situation requiring international protection.

It is also regrettable that the world must currently confront the phenomenon of the systematic exploitation of children, who are often compelled under different guises by force to participate in conflicts. It has been estimated that approximately 300,000 children are being used as soldiers in current conflicts. The Egyptian delegation urges all belligerents in the various conflicts throughout the world to respect children's innocence and ensure that it be preserved, for children are our hope for future peace. We also support the practical recommendation made by certain speakers that the minimum age for the recruitment of soldiers be raised to 18. More than 2 million children have been killed, 1 million orphaned, more than 6 million severely wounded and more than 10 million displaced. This gives us pause and we must take it very seriously.

We believe that the protection of children requires action at several levels. The key lies in full respect for human rights, especially those of civilians, and in the education of combatants on the rules for the protection of children. Specific rules must be added to the code of conduct on the protection of children. We must ensure that humanitarian personnel is trained in the protection of children in armed conflict. In this connection, we would like State and non-State actors alike to commit themselves to sparing children the scourge of war and to ensuring that those who survive wars do not become vindictive in their suffering.

Concerning the impact on civilians of sanctions imposed by the Council, I also wish to point out that these sanctions affect children first and foremost in the areas of nutrition, health, education and psychology. The sanctions that have been imposed in our times on certain States, such as Iraq, have had truly tragic consequences for the civilian population in general and children in particular, as well as on third countries, engendering bitterness and exacerbating aggressiveness. These situations should be revisited and innovative responses considered to ensure that the victims — civilians in general and children in particular — receive help.

Another important issue is the guarantee of protection for humanitarian personnel. Disquieting and deplorable are the current conflicts in which humanitarian agencies cannot intervene because human rights, safety and security are being flouted. When the safety of humanitarian personnel cannot be ensured, they cannot carry out their jobs. Many have suffered in the line of duty, being killed, injured or kidnapped. There must be greater sensitization in humanitarian affairs to the alleviation of human suffering.

Our delegation wishes here to pay a tribute to the very important role played by the International Committee of the Red Cross, particularly in disseminating these ideas and in trying to ensure respect for humanitarian law. Since last year, the world has witnessed two important events capable of promoting the implementation of international humanitarian law.

The first may apply in theory: the adoption of the Statute of the International Criminal Court. We hope that it will be up to the task of punishing those who practice their violent activities without scruple. The Statue of the Court is intended principally to protect civilians and we hope that the punishment of perpetrators in these situations will serve to keep others from repeating such activities.

The second development is the positive and unprecedented decision to call upon the High Contracting

Parties to the 1949 Geneva Conventions to convene a conference of the States parties on 15 July this year in the United Nations Office in Geneva on measures to enforce the Fourth Geneva Convention in the occupied Palestinian territory and to ensure its respect in accordance with common article 1. This would make it possible to hold similar conferences for follow-up and support and to monitor implementation of such conventions. Egypt believes that the holding of this important conference is one step forward to enhance international humanitarian law. Egypt is profoundly convinced that the Swiss Government, as the depositary State of the four Conventions, will spare no effort to ensure the success of the Conference.

Having said this, I should like to revert to the role of the Security Council, to reaffirm what I have said at the outset and what was stated already by the Egyptian delegation, on what considerations should be taken into account in the determination of the mandate of any operation which has a military component and which reacts to humanitarian issues on conflict.

First, we must draw a distinction between the responsibility and objective of the action and the responsibility and objective of the humanitarian effort. The Council should avoid the pitfall of leaving the humanitarian actions and discussions as an alternative to political or military actions.

Secondly, this mandate must always include arrangements related to the voluntary return of refugees, their repatriation and their compensation for loss of property.

Thirdly, rules of engagement must also be clarified and rendered more specific, as they are the very foundation for United Nations forces in dealing with the parties to a conflict. We must ensure that tragic events such as those that occurred in Bosnia and Herzegovina do not recur. Those rules should include the principles established in the traditional peacekeeping emergency operations which the United Nations began in Egypt in 1956. Those principles can be summarized in a few words: neutrality, self-defence and the ability to protect headquarters.

Finally and in conclusion, the Security Council asked the Secretary-General to submit a detailed report containing practical recommendations on the means by which the Council could enhance physical and legal protection of civilians in situations of armed conflict. We support the idea that the Secretary-General should meet this request, and in view of the complementarity between the Council and the whole system of humanitarian protection I have mentioned, my delegation also said the Secretary-General should submit his report to the General Assembly as well, so that the Council and the Assembly may both shoulder their responsibilities without contradicting each other.

The President: The next speaker on my list is the representative of Uruguay. I invite him to take a seat at the Council table and make his statement.

Mr. Pérez Otermin (Uruguay) (*interpretation from Spanish*): I should like to begin by expressing thanks and congratulations to you, Sir, on your initiative for having convened this open meeting of the Security Council today in order to hear the views of the Member States of the United Nations that are not members of the Security Council on an issue of such vital importance as the protection of civilians in armed conflict, an issue which involves and affects all of us.

Allow me also to congratulate the Permanent Representative of Brazil, Ambassador Celso Amorim, for having convened during his tenure as President last month the meeting on 21 January, when we heard the excellent statement of Mr. Sergio Vieira de Mello, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator.

That meeting, together with the one held on 12 February during the Canadian presidency, in the person of the Canadian Foreign Minister, Mr. Axworthy, which showed the importance which your country attaches to this issue, allowed sufficient elements of judgement and suggestions to be voiced so that our intervention will be very brief to the extent that we fully agree with the contents and suggestions of the speakers invited to make statements during those meetings.

We would also like to congratulate Mr. Sergio Vieira de Mello, Mr. Cornelio Sommaruga, President of the International Committee of the Red Cross, Ms. Carol Bellamy, Executive Director of the United Nations Children's Fund, and Mr. Olara Otunnu, Special Representative of the Secretary-General for Children and Armed Conflict. My country's position fully coincides with all the content of their statements and suggestions. We also emphatically support the statement of the President of the Council of 12 February of this year, contained in document S/PRST/1999/6.

My country, Uruguay, is attending this meeting of the Security Council with the authority conferred on it as one of the founding Members of the United Nations and one of the principal contributors to peacekeeping operations in relative terms to its population and the size of its armed forces, and it has made such contributions from the very beginning.

Having looked carefully at the records of the two meetings of the Security Council to which we have referred, which contain not only the statements of those mentioned above who were invited to speak, but also the wise statements of representatives of the member States of the Security Council, it would seem that nothing remains to be said, for these statements seem to be enough for the Secretary-General to prepare the document requested of him through the presidential statement, a request we fully agree with as well.

It is clear that the time to continue formulating international norms in this area has passed, and the time has now come to ensure that these norms are fully implemented. We therefore view the presence of States non-members of the Security Council here as one more indication of the Council's policy of having an ongoing exchange of views between the Council and all of the Member States, which contributes to greater transparency in its activities.

Therefore, Uruguay today offers all its political support to the Security Council so that it can exercise its authority in accordance with the letter of the Charter of the Organization and so that it can demand and affirm in armed conflict, the defence of civilians and in fulfilment of international norms of humanitarian law and human rights, for this is part of its international responsibility for the maintenance of peace and security. In this connection, we must not forget the clear provision contained in Article 24 of the Charter whereby we, the Member States, conferred on the Security Council the primary responsibility for the maintenance of international peace and security, and acknowledged that in carrying out its duties under this responsibility the Security Council would act on behalf of all of us.

Therefore, in this interplay of those who decide and those who carry out the decisions, we understand that it is our responsibility to renew our full support to the Security Council in its effort to uphold the rights of civilians in times of war.

As a contributor to peacekeeping operations, Uruguay has suffered the loss of human lives among its citizens. Thus, we support all of the proposals made in these Security Council meetings because we believe that they can make a decisive contribution to preventing action against civilians in armed conflicts and to defending the legitimate rights of those who so generously and disinterestedly do humanitarian work.

We have on many occasions noted that the primary purpose of the United Nations is the maintenance of international peace and security, as clearly stated in Article 1, paragraph 1, of the Charter. This proposition is the foundation on which all the others must be established. Without peace it is not possible to establish a democratic system of government, and without democracy it is not possible to maintain a mechanism that will ensure genuine protection of human rights. A strong and independent judiciary is unthinkable in any political system other than a genuine democracy in which there is a clear separation of the three state powers: the executive, the legislative and the judicial.

Allow me once again to express our full support for the clear proposals made by speakers. Without attempting to establish priorities among these proposals, let us state that to build peace, once it has been re-established, there must be at least a minimum of the necessary economic and social development.

Thus we would like to reiterate here what Uruguay has stated on other occasions: the best way to prevent conflict, and internal conflict in particular, is by contributing to the economic development of peoples, including such essential social components as education and health.

The defence of the rights of children is one of Uruguay's domestic and international priorities. We will continue to be a passionate proponent of establishing age 18 as the universal minimum age for the recruitment. We also believe that humanitarian assistance must be protected, and we strongly support all demining activities as well as the full and transparent elimination of all arms-trafficking.

In the light of the documents mentioned, words are not enough. Therefore, Uruguay, without overloading its own responsibilities in this regard, renews its full political support for the efforts of the Security Council and the Secretary-General to protect the rights of civilians in armed conflicts, as these efforts will undoubtedly

contribute to the maintenance of international peace and security.

The President: The next speaker is the representative of Zambia. I invite him to take a seat at the Council table and to make his statement.

Mr. Kasanda (Zambia): My delegation is grateful to you, Mr. President, and to the other members of the Security Council for allowing me to participate in the Council's deliberations today on a topic that commands international appeal, namely, "Protection of civilians in armed conflict".

It is fitting that the Security Council should focus attention on the protection of civilians in armed conflict. Statistics show that this last decade before the new millennium has witnessed more civilian casualties than in all the previous conventional conflicts since the end of the Second World War, conflicts that have killed around 22 million people. Ironically, this has happened in the aftermath of the cold war, a period we all thought would usher in an era of unprecedented peace and tranquillity throughout the world.

It is a matter of immense regret that civilians, including women, children and the elderly, are today the deliberate targets in the current wave of internal conflicts. So are the humanitarian personnel sent to provide assistance to those in need of such assistance.

In any discussion of the plight of civilians in times of war, the role played by small and light weapons will always be a matter of concern to the international community. To illustrate this disturbing phenomenon, the United Nations Development Programme, in its *Human Development Report 1998*, says that in the last decade alone armed conflict killed 2 million children, disabled 4 to 5 million and left 12 million homeless, more than 1 million orphaned or separated from their parents and some 10 million psychologically traumatized.

The report further states that the opportunity costs of armed conflicts have remained alarming, as conflicts continue to destroy years of progress in building social infrastructure, establishing functioning governmental institutions, fostering community-level solidarity and social cohesion, and promoting economic development. Small and light arms therefore constitute an issue of legitimate concern for the international community.

Women, children and the elderly are the most vulnerable groups in areas of conflict, but for children conflict is all the more devastating an experience. Those who deal in the delivery of humanitarian services worldwide, particularly for children, have indicated that 300,000 children, girls and boys, have participated as combatants in the 30 most recent conflicts. Although some are recruited, some are just abducted.

Child soldiers spend their entire youth as bearers of arms on the battlefield. All they know as they enter adulthood is war and the killing it entails. Under these conditions, generations of the human race miss golden opportunities to attend school and prepare for their uncertain future. When the war is over, they become a liability to society. They find themselves with none of the skills that normally come with the benefit of education and that would have allowed them to compete in the job market. The hapless children are doomed to a life of abject poverty.

The alarming problem of the protection of civilians in armed conflict is a demanding and urgent matter which, under normal circumstances, could have been less of a problem if only the various mechanisms that have been put in place through international instruments adopted over the past 100 years or so were respected. To be sure, this year, 1999, marks the commemoration of the centenary of the first International Peace Conference, which dealt with humanitarian law. It is also the centenary of the Hague Convention, the fiftieth anniversary of the Geneva Conventions and the thirtieth anniversary of the Organization of African Unity Convention governing the Specific Aspects of Refugee Problems in Africa.

Most of these instruments have been ignored with impunity, and civilians — particulary women, children, the elderly and the sick — have been victimized. Examples exist in Bosnia and Rwanda, where criminal politicians had a policy of inciting ordinary people to kill their neighbours, all because they were of a different ethnic or tribal background. However, it is gratifying to know that some of those tin-pot politicians are going through trials for the genocide committed. The establishment of Tribunals in respect of these two countries will have been a major achievement in the sustained effort to protect civilians in conflict situations in the future if punishments emanating from the Tribunals have a demonstrable effect.

The Convention on the Rights of the Child, for example, has implications for both human rights as well as international humanitarian and refugee law. However, despite the existence therein of article 38, which requires States to respect international humanitarian law and also establishes the minimum age for conscription at 15, warlords and other actors in situations of conflict flout this instrument with impunity.

My delegation therefore supports the proposal, which is gaining widespread acceptance in the United Nations, to increase the minimum age to 18 and to introduce an age requirement for United Nations peacekeepers and the international civilian police as well. My delegation also supports the proposal by the Special Representative of the Secretary-General for children and armed conflict to make the recruitment of child soldiers a war crime.

Putting in place various mechanisms to eradicate the exploitation of women, children and the elderly has proved to be just one of the mitigating solutions. It is like a cure for a disease that has already broken out. The best solution is preventive action, which calls for tackling the root causes of conflicts in the whole world.

We are thankful to the Secretary-General, who in his report dated 13 April 1998, entitled "The causes of conflict and the promotion of durable peace and sustainable development in Africa", has defined all the underlying causes of conflict. Those are the fundamental issues that must be addressed in order to eliminate the requirement for the protection of civilians in armed conflict. The goal should therefore be to prevent the outbreak of conflict in the first place.

However, before the root causes of conflict can be completely eradicated, all States must bear their responsibilities which flow from the various international instruments defining their obligations to protect civilians in armed conflict. By the same token, the Security Council, too, has its own share of responsibility in the protection of civilians in armed conflict. It is the Security Council that has responsibility for the maintenance of international peace and security. In this respect, war and conflict situations should be treated in the same way, regardless of their location in the world.

Finally, my delegation looks forward to the report by the Secretary-General, which is due in September 1999, on ways in which the Council, acting within its sphere of responsibility, could improve the physical and legal protection of civilians in situations of armed conflict.

The President: The next speaker inscribed on my list is the representative of Iraq. I invite him to take a seat at the Council table and to make his statement.

Mr. Hasan (Iraq) (*interpretation from Arabic*): Allow me at the outset to thank you, Sir, for granting the opportunity to States Members of the United Nations to express their views on the question of the protection of civilians in armed conflict. This question assumes today a greater importance than ever before because of the growing exposure of civilians to the horrors of armed conflict. The international community should therefore accord it due importance so as to secure respect for the basic standards of international humanitarian law.

The treatment of this question necessitates the adoption of a balanced approach that takes into consideration several factors. The question has numerous facets, requiring the interaction of the efforts of numerous international bodies.

First, for such interaction to take place, international organizations should act strictly within their competence and refrain from encroaching on the competence of other organizations. On this occasion we would like to highlight the effective role required of the Secretary-General of the United Nations, the General Assembly, the Economic and Social Council and all other United Nations bodies and humanitarian organizations, foremost among them the International Committee of the Red Cross. At the same time, we warn against attempts by the Security Council to encroach upon the competence of those organizations and against attempts to politicize humanitarian issues.

Secondly, the best way of protecting civilians is to attempt to prevent the outbreak of conflict through preventive diplomacy and the role of the Secretary-General and of the United Nations bodies in accordance with the mechanisms provided for in Chapter VI of the Charter. Attempts to invoke action under Chapter VII are fraught with danger and will have adverse consequences, as experience has shown.

Thirdly, any action taken in the context of the protection of civilians in armed conflict must strictly observe paragraph 7 of Article 2 of the Charter. Breaching that Article would throw the door wide open to intervention in the internal affairs of States, especially at this time when we are witnessing rampant selectivity and double standards in the Security Council.

Fourthly, there must be comprehensive consideration of the causes and motives for conflict. The international community must not, by placing the onus on those directly involved in such conflict, shirk its responsibility for dealing with conflict. A partial, premature view of the conflict will lead to premature solutions, which may complicate the situation rather than resolve it. It is self-evident that the majority of conflicts in the third world have their roots in the heavy legacy of colonialism, the lack of socio-economic development and the tendencies of neo-colonialism, as well as in the current international economic environment, which makes the poor poorer and the rich richer.

The international community must make a parallel effort in the domain of development, respecting the rights of peoples to define their own social, economic and political options. We do not believe, for example, that we will be very successful in preventing the recruitment of children in conflicts if we do not provide schools for them and employment opportunities for their parents.

Everyone has spoken about the role of the Security Council in protecting the victims of armed conflict. Allow me to speak about the need to protect the civilians who are victims of the practices of the Security Council itself and of some permanent members of the Council.

I believe that it is high time for the Council to face the facts squarely. In countries plagued by poverty, unemployment and lack of development, it is not only regular armies and armed militias that are capable of perpetrating heinous crimes. Allow me to briefly review some practices by the Security Council and by some of its permanent members and compare such practices with the principles regarding the protection of civilians mentioned by some of the speakers at this meeting, on the basis of my country's experience with the Security Council.

First, Mr. Sommaruga, President of the International Committee of the Red Cross (ICRC), said, "Nothing can justify punishing an entire population" *(S/PV.3977, p. 4)*. The facts show that on 2 August 1990 the Security Council imposed comprehensive sanctions against Iraq, which are still in effect. These sanctions and the aggression against Iraq in 1991 claimed the lives of 1.5 million Iraqi civilians and devastated the socio-economic infrastructure of Iraqi society for generations to come. These sanctions, by any standard, are collective punishment. If the Council wants to take a serious step to protect civilians, it can do so at this very moment. All it has to do is lift the sanctions against Iraq immediately.

Secondly, Ms. Carol Bellamy, Executive Director of the United Nations Children's Fund (UNICEF), said, "we must protect children from the effects of sanctions" *(S/PV.3977, p. 7)*. The facts indicate that with every passing hour, 10 more Iraqi children die because of the continued sanctions. Is the Council willing to show more tolerance regarding this crime being perpetrated in its name?

Thirdly, numerous speakers called upon the Security Council to play a collective role in protecting civilians in armed conflict and called for individual roles for the Governments represented on the Council. This sincere wish runs counter to the fact that two permanent members of the Security Council consider themselves above the law and feel that the United Nations Charter and international law apply only when they are in line with their own interests. Their most recent aggression against Iraq, on 16 December 1998, provides the best proof of that. In this very Chamber, most Council members spoke on that day of the aggression and stated that the Security Council has no mandate for the use of force. Some of them explicitly condemned the aggression; yet the aggression continued and claimed the lives of hundreds of Iraqi civilians.

Fourthly, Mr. Otunnu, Special Representative of the Secretary-General for Children and Armed Conflict, said, "we have to promote the concept of children as a zone of peace" *(S/PV.3977, p. 9)*. The facts show that Iraqi children suffer the daily horror caused by British and American sorties over the cities and the villages of Iraq. These aircraft often break the sound barrier over homes, causing children to tremble in fear. Other Iraqi children are killed daily by British and American smart bombs.

The United Nations Humanitarian Coordinator in Iraq, Mr. Hans van Sponeck, reported to the Security Council on the dropping of American smart bombs on residential neighbourhoods of the city of Basra on 25 January. This one incident claimed the lives of 17 martyrs and injured 100 people, mostly women and children. The report is before the Council, which has yet to take action on it.

It is my belief that the Council has a good opportunity to protect Iraqi civilians by preventing the daily use of force by Britain and the United States against them through the imposition of the illegal no-flight zones. It is incumbent on the Council to say to the United States and Britain that this illegal conduct is in full violation of Security Council resolutions that call for respect for the

sovereignty, independence and territorial integrity of Iraq. The Council should denounce that conduct forthwith.

Fifthly, we have heard some speakers at this meeting warn against the use of the media to instigate violence and sedition. The United States has used this means against Iraq. The radio station targeting the national Government of Iraq, which recently began to broadcast in Prague, the capital of the Czech Republic, is additional proof of some Council members violation of their responsibilities under the United Nations Charter.

All of this evidence regarding the way the Council, as an institution and as an assemblage of States, deals with Iraq, calls for the Council to undertake a comprehensive review of its position on the question of the protection of civilians in armed conflict and should take decisive steps to correct the situation. The fault lies with the Council itself.

The President: The next speaker inscribed on my list is the representative of Israel. I invite him to take a seat at the Council table and to make his statement.

Mr. Gold (Israel): Let me begin by congratulating you, Sir, on your assumption of the presidency of the Security Council and on the manner in which this particular meetings has been conducted so far. I would also like to pay tribute to your predecessor, Ambassador Amorim of Brazil. Let me also add that I would like to pay a special tribute to the Ambassador of Egypt, Mr. Nabil Elaraby. Egypt is the first country with which Israel had diplomatic relations in the Arab world, and Ambassador Elaraby has been a gifted and experienced diplomat who represents eloquently his country's point of view.

The State of Israel has a deep and historical interest in the growth, integrity and respect of international humanitarian law in general, and the Geneva Conventions in particular. As a nation that lost one third of its population in the Nazi occupation of Europe, in the most heinous case of genocide in human history, Israel's own birthright is engraved with a particular responsibility to prevent this crime from occurring ever again against the Jewish people and a universalist commitment to combat genocide, crimes against humanity and war crimes wherever they may occur.

In this context, Israel is concerned with what is transpiring today regarding those international instruments designed to protect civilians in armed conflict, including the Geneva Conventions. The world community is facing at least 20 ongoing armed conflicts around the globe that have led to acute starvation, ethnic cleansing and the physical eradication of entire communities.

A basic paradox confronts the international community in this regard. For while the Geneva Conventions in particular have received nearly universal support through the accession of 188 countries, it remains a challenge to ensure that the provisions are upheld on the ground and accorded the respect they deserve.

The architects of the Geneva Conventions were aware that this sort of situation might arise. Common article 1 of the Fourth Geneva Convention states:

> "The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances."

The majority interpretation of this article at the close of the 1949 Geneva Conference was that this language was intended to require States to ensure that their own populations, armies and institutions respect the Convention. This meant that not only clear instructions be given by States to the relevant departments of their Governments, but also that these regulations be carried out.

There are practical steps that every signatory to the Fourth Geneva Convention can adopt in order to ensure greater respect and adherence to its provisions. First, States have a responsibility to educate their peoples regarding the importance of humanitarian law in general. This should not be confined to the small community of legal experts in foreign ministries and universities who write on this subject. States should disseminate information about the Fourth Geneva Convention even before they become involved in armed conflicts. For example, the Fourth Geneva Convention should be included in military training. In fact, the provisions of the Convention should be included in the staff orders of every soldier, which is the practice of the Israel Defence Forces.

Secondly, States can use their legal processes to broaden adherence to the Fourth Geneva Convention. Legal advice and representation should be given to every civilian coming under military administration as a result of armed conflict. Moreover, individuals facing administrative decisions taken by the military should have the right of appeal or redress. Israel, for its part, has given the residents of the territories under its military administration the right to challenge the actions of the

Israel Defense Forces by subjecting them to judicial scrutiny. In other words, Palestinian Arabs were given the right of appeal to Israel's Supreme Court while they were under Israeli military administration. Parties to the Fourth Geneva Convention should consider adopting this precedent set by the State of Israel.

To ensure respect for the Fourth Geneva Convention, it is not only necessary to advance education on humanitarian law and to utilize the legal process. It is also necessary to ensure the principle of freedom of access. Humanitarian norms, in short, are best protected by transparency. Israel did its part in this regard by providing the International Committee of the Red Cross (ICRC) with access to territories under its military administration.

Clearly, when a State party opens its sensitive operations to outside scrutiny, it can provide ammunition to those with hostile agendas. Such openness, after all, will not always guarantee objectivity on the part of those reporting on humanitarian matters. But States should risk unfair criticism rather than compromise freedom of access, which is an essential check on the protection of human rights. For bitter experience has demonstrated that visible protection invariably is the only protection for many civilians in times of war.

The greatest threat to international humanitarian law, it must be remembered, is politicization. For it is more than frequently the case that States that spotlight their concern with alleged human rights violations in one case are in fact attempting to divert international attention away from serious breaches of international humanitarian law in some of the most urgent cases. Thus great international efforts may be spent on questionable cases, while massive human rights violations are completely ignored in others. When human rights are used to advance one single political agenda while the rights of countless others are ignored, human rights are denigrated, becoming a political instrument of narrow interests instead of a universal standard for the protection of all humanity.

The twin pillars of humanitarian protection are objectivity and neutrality. The moment the neutrality of international humanitarian institutions is threatened, the protection of human rights itself is endangered. Not all States can maintain freedom of access if they cannot trust that they are being scrutinized by impartial standards. It must be absolutely clear to occupying Powers and occupied populations that the body responsible for overseeing the implementation of international humanitarian protection is guided by complete impartiality. That requires giving due regard to unique situations as well as to the complexities and security dilemmas that they entail.

States are not tested in times of complete peace and prosperity. Adherence to international humanitarian norms is not measured by what officials write in learned journals or present at international seminars. The real test of States as to the seriousness they attach to international humanitarian law comes when they face clear and immediate threats to their national security and nonetheless demonstrate a decisive determination to educate their armed forces, to incorporate their legal processes and to retain transparency in order to protect the rights of civilians in armed conflict.

The President: In accordance with the decision taken earlier in the meeting, I now invite the Permanent Observer of Palestine to take a seat at the Council table and to make his statement.

Mr. Al-Kidwa (Palestine): We believe that protection of civilians in armed conflict is a matter of extreme importance. In this regard, we would like to express our appreciation to Canada for its initiative in bringing the matter before the Security Council. The statement adopted by the Council on 12 February 1999 provides a solid basis for fruitful work, and we are heartened to see the Security Council call upon all the parties concerned to comply strictly with their obligations under international law, in particular their relevant obligations under the Hague Conventions, the Geneva Conventions of 1949 and their Additional Protocols of 1977. We look forward to receiving the report of the Secretary-General which was requested in the statement by the Security Council.

Today, with the continued and increased suffering of civilians in armed conflicts, respect for the instruments of international humanitarian law and the enforcement of those instruments are critical matters. The upcoming fiftieth anniversary of the four Geneva Conventions provides us with an additional incentive to intensify our work in this regard. At this time, allow us to register our appreciation for the role which has been played by the Government of Switzerland, in its capacity as the depositary of the Conventions, and for the International Committee of the Red Cross (ICRC) for its untiring efforts in this regard.

For the Palestinian people, the provision of protection for civilians is not only an especially important matter — it is a matter of life and death. More than 50

years ago, approximately 700,000 Palestinian civilians were uprooted from their homes and properties and made refugees, thus creating the oldest and most protracted refugee problem still existing today. Approximately 20 years later, as a result of the 1967 war, scores of Palestinian civilians were again forced to leave their homes and lands, some of them for the second time, creating the so-called Palestinian "displaced persons". To this very day, the Palestinian refugees, who now number more than 3.5 million, remain deprived of their inalienable rights to return to their homes and properties and to be compensated, in accordance with General Assembly resolution 194 (III) of 1948. Even the Palestinian displaced persons, now numbering more than 600,000, have not been allowed to return, despite Security Council resolution 237 (1967).

Following its occupation of the West Bank, including East Jerusalem, and the Gaza Strip in 1967, Israel, the occupying Power, has continuously committed grave breaches of the Fourth Geneva Convention and of the Hague Conventions. The Security Council has responded by adopting 24 resolutions, which have reaffirmed the applicability of the Fourth Geneva Convention to the territories occupied by Israel since 1967, including Jerusalem. Many of these resolutions have called upon Israel, the occupying Power, to comply with the provisions of the Convention and to accept its *de jure* applicability. In several cases, the Council has also called for measures to ensure the safety and protection of the Palestinian civilians living under Israeli occupation. The Council has also called upon the High Contracting Parties to the Convention to ensure respect by Israel for its obligations under the Convention in accordance with common article 1. In resolution 681 (1990) of 20 December 1990, the Security Council requested the Secretary-General to develop further the idea of convening a meeting of the High Contracting Parties to the said Convention to discuss possible measures that might be taken by them under the Convention and also requested him to monitor and observe the situation regarding Palestinian civilians under Israeli occupation and to submit periodic reports. Israel, the occupying Power, has not complied with or even accepted any of the aforementioned resolutions. The Security Council, in return, has failed to react to this unique situation in fulfilment of its responsibilities under the Charter of the United Nations and international law, which has led to an unforgivable culture of impunity.

The Chairman's report on the meeting of experts on the Fourth Geneva Convention, which was held in Geneva on 27 to 29 October 1998, identified violations of the Fourth Geneva Convention in armed conflicts in general and in occupied territories. All of those violations apply in the case of the Israeli occupation of the Palestinian territory. Under this occupation, we have seen the continuing and large-scale destruction of the economic and social structures of the occupied territories and the substitution of the occupying Power's laws for those previously in force. We have seen deportations, displacement and the arbitrary detention of civilians; the confiscation of land and destruction of property; ill treatment of and violence against the civilian population; as well as numerous measures of collective punishment. On top of all that, we have seen the transfer by the occupying Power of a part of its own population to the occupied Palestinian territory, in grave breach of article 49 of the Convention. This article was drafted specifically to prevent colonization, annexation and any changes in the character of any occupied territory. There now exist more than 330,000 Israeli settlers in 175 settlements in the occupied Palestinian territory, 180,000 of whom live within the illegally extended municipal boundaries of occupied East Jerusalem.

What does all this mean? It means a unique situation which has been catastrophic for the entire civilian Palestinian population — a situation which started more than 50 years ago and continues to the present day. The situation is no less catastrophic for the Palestinian civilian population living under Israeli occupation, which has been subject to continuous oppression and is now subject to the only colonization campaign taking place at the end of the twentieth century.

In April 1997, for the first time in 15 years, in accordance with General Assembly resolution 377 (V) of 1950, entitled "Uniting for Peace", and under rule 8 (b) of its rules of procedure, the General Assembly opened an emergency special session to consider illegal Israeli actions in East Jerusalem and the rest of occupied Palestinian territory. The tenth emergency special session was convened after the Security Council had failed to exercise its primary responsibility for the maintenance of international peace and security because of the exercise of the veto by a permanent member twice in less than two weeks. The session has adopted five resolutions, all of which affirm the applicability of the Fourth Geneva Convention to the occupied Palestinian territory, including Jerusalem, and demand that Israel accept the *de jure* applicability of the Convention and immediately cease its settlement activities and other illegal actions.

The General Assembly has also made appropriate recommendations for collective action by the Member States. It has recommended three times that the High Contracting Parties to the Fourth Geneva Convention convene a conference on measures to enforce the Convention in the occupied Palestinian territory, including Jerusalem, and to ensure its respect in accordance with common article 1. In resolution ES-10/6 of 9 February 1999, the General Assembly further recommended the convening of the said conference on 15 July 1999 at the United Nations Office at Geneva and invited the Government of Switzerland, in its capacity as the depositary of the Fourth Geneva Convention, to undertake whatever preparations are necessary prior to the conference.

We believe that the convening of the conference will be an extremely important development for the application and enforcement of the Fourth Geneva Convention and for international humanitarian law in general. Its significance comes regardless of the fact that it comes belated and possibly because of the fact that no such conference has ever been convened in the past, despite all the atrocities that have taken place worldwide and despite the need for such a conference. The international community must ensure that the Geneva Conventions are there to be implemented and to be enforced and it must provide protection for civilians in armed conflict. For any promise of future action to be credible, however, the international community cannot ignore the above-described situation.

This ends my intervention on the subject at hand. Allow me, however, to say a few words about our participation in the meeting of the Council today. As members know, on 4 December 1975, at its 1859th meeting, the Security Council considered a request for the participation of the Palestine Liberation Organization (PLO) in that meeting of the Council. The request was not made under rule 37 or rule 39. The Security Council decided on that date, by a vote, that an invitation should be extended to the PLO to participate in the debate on the situation in the Middle East and that that invitation would confer upon it the same rights of participation as are conferred upon a Member State when it is invited to participate in the discussions under rule 37 of the provisional rules of procedure of the Council.

That invitation, upon vote by the Council, was repeated on numerous occasions. As of February 1994, Palestine has been invited to participate in the discussion without a vote by the Council, on request, in accordance with the provisional rules of procedure and established practice. The established practice, in our opinion, is clear. On issues related to Palestine, occupied territories and the situation in the Middle East, as well as other issues, the practice has always been to follow the same pattern. The PLO and later Palestine participated among Member States who are not members of the Council.

Today, that practice was not adhered to, for reasons we cannot comprehend. We understand that the established practice was perhaps not made clear and that General Assembly resolution 52/250 has been raised as a reason. That, of course, would be ironic, for many reasons, including the fact that the same resolution states:

> "The additional rights and privileges of participation of Palestine shall be effected through the following modalities without prejudice to the existing rights and privileges."

I would like to express our appreciation for the opportunity to speak before the Council today. However, we hope the Council members will take another look into this procedural issue, and we trust that today's aberration will be without prejudice to the established practice of the Council with regard to the future participation of Palestine.

The President: I will formally ask the Secretariat to look into the precedents you cited so that we can be certain that next time we face this issue we have a very clear idea of the precedents and the practices to which you refer.

In accordance with the decision taken earlier in the meeting, I now invite the Permanent Observer for Switzerland to take a seat at the Council table and make his statement.

Mr. Staehelin (Switzerland) *(interpretation from French):* I would like to thank you, Sir, and your delegation, as well as members of the Security Council for having organized this debate. As depositary of the Geneva Conventions and their Additional Protocols, Switzerland attaches major importance to respect for humanitarian law and sincerely appreciates your commitment to the protection of civilians affected by armed conflict. It was with particular interest, therefore, that my delegation listened to the statements just made, as well as those made in the Council on 21 January and 12 February 1999.

The Presidential Statement dated 12 February reflects the conviction that humanitarian law is based on universal values. The celebration of the fiftieth anniversary of the Geneva Conventions and the commemoration of the centenary of the first international Hague Peace Conference affords States an opportunity to take a comprehensive look at the way in which this law has been respected and the possibility of taking specific steps to prevent and punish violations of that law.

Crises which have recently broken out in various parts of the world have inflicted great suffering on the civilian populations, particularly the most vulnerable groups such as children, women, the elderly, refugees and displaced persons. The sufferings of civilians are particularly great when the parties involved do not have, or no longer have, chains of command and are thus acting without any instructions or control, or when their actions are based on ethnic considerations and are designed to eliminate the other.

The appearance and persistence of these new types of conflict confront the staff of humanitarian organizations with specific challenges. The President of the International Committee of the Red Cross, Mr. Cornelio Sommaruga, mentioned this in his statement to us.

In recent conflicts, weapons with indiscriminate effects have inflicted heavy casualties on the civilian population. The use of anti-personnel mines has defied some of the elementary principles of humanity. The proliferation of other conventional weapons, such as light arms, has also had an impact on hostilities and has had devastating effects indeed.

In the light of numerous violations of humanitarian law committed throughout the world, punishment is of particular importance. Although the instruments of humanitarian law contain rules governing this matter, the perpetrators of these offenses are not always tracked down, persecuted and punished.

Like other States, Switzerland has given thought to each of these topics. We are particularly anxious to define the scope of common article 1 to the Geneva Conventions, as well as machinery which could help promote respect for humanitarian law. We were responsible for convening the first periodic meeting on international humanitarian law, which in January 1998 dealt with the protection of humanitarian personnel and so-called unstructured conflicts, and also the expert meeting on the Fourth Geneva Convention, which in October 1998 considered general problems relating to the implementation of the Convention in general and in occupied territories.

These meetings were concerned with promoting the protection of civilian populations in armed conflicts. They confirmed that the difficulties which impede respect for humanitarian law may have diverse causes, which may be either technical or financial. They may also be related to insufficient norms or ignorance thereof. But their main source without doubt lies in the determination not to apply that law. Thus it is essentially political and legal disputes relating to the applicability of the Fourth Geneva Convention which have so far hampered the application of that instrument.

We are aware that States have to respect and to ensure respect for humanitarian law, which means in particular that States must protect civilians against the effects of armed conflicts. The obligation enshrined in common article 1 of the Geneva Conventions clearly has a legal scope. But the content of that obligation is not spelled out. Hence the law essentially leaves it up to the political evaluation of the States concerned to identify measures to be taken in a particular case. States must respect the principle of good faith in making such a choice.

The obligation to respect and ensure respect for humanitarian law above all has an effect at the national level, but it can also have consequences internationally. It can, *inter alia*, result in creating international cooperation, bilateral or multilateral.

The reports drawn up by the chairmen of the meetings held in January and October 1998 set forth a series of steps to remedy the problems identified. These steps can be taken before, during or after a conflict. They have legal, political, economic or social dimensions and can also be unilateral, bilateral or multilateral in nature. States may also rely on the support of relevant organs such as the International Committee of the Red Cross, and they can envisage increased cooperation with them and with international organizations, first and foremost the United Nations, as indicated in article 89 of Additional Protocol I to the Geneva Conventions.

More specifically, Switzerland believes that, first, the international community must promote the universal application of international humanitarian law, for example by encouraging the ratification of pertinent instruments. Second, we should intensify dissemination of humanitarian law and fundamental humanitarian values so

as to counteract the development of a culture of violence, while taking into account local customs and situations and the possibilities provided by modern means of communications, as well as the need to educate civil society as broadly as possible. Third, we need to promote respect for humanitarian law by non-State entities and to confirm the fundamental nature of the rules enshrined in common article 3 of the Geneva Conventions. Fourth, we should make it possible for the interested parties to establish and maintain appropriate lines of communication with all the parties to an armed conflict, be it international or national in character.

Fifth, we should take specific steps to punish acts of violence directed against civilians and, in particular, to promote the International Criminal Court becoming operational as soon as possible. Sixth, we need to guarantee that the obligation to punish violations of humanitarian law is supported by complementary efforts to achieve national reconciliation.

Seventh, we should make better known the statutes and the competencies of humanitarian organizations and encourage these organizations, insofar as possible, to coordinate their activities, both with one another and with other actors working in the field.

Eighth, we must pursue the elimination of anti-personnel mines, particularly by promoting the implementation of the so-called Ottawa Convention and by giving increased priority to demining and to international cooperation in this area. Ninth, we should establish tighter control over the transfer of light weapons and substantially reduce the existing stocks of these weapons.

Tenth, we need to promote the rapid adoption of an instrument banning the recruitment of children below the age of 18. Eleventh, in the same spirit, we must prevent the enlistment of such children and their direct or indirect involvement in hostilities and promote the demobilization of children thus recruited.

Twelfth, and finally, we need to give much more thought to identifying machinery that could be set up to monitor the implementation of humanitarian law in specific situations, bearing in mind already existing organs such as the humanitarian International Fact-Finding Commission.

The Swiss delegation cannot conclude its remarks without addressing more specifically the role of the United Nations in protecting civilians affected by armed conflict, as well as the specific responsibility of the Security Council in this field.

In the view of Switzerland, the actions of the United Nations should be aimed at preventing conflicts and promoting the reconstruction of local capacities after hostilities end, by contributing to appropriate economic, political and social development. Following the example of the ad hoc tribunals set up to try offences committed in the former Yugoslavia and in Rwanda, these actions should also aim at guaranteeing respect for humanitarian law and punishing violations that may have been committed. We believe that the Security Council should take due account of possible negative repercussions of economic sanctions on the civilian populations of the State concerned and on third States. Finally, Switzerland believes that humanitarian law, the needs of the civilian population and the particular problem of child soldiers should be duly taken into account when crafting the mandates for peacekeeping operations.

The President: Four countries have asked to speak in what used to be called the right of reply. They are Iraq, the United States, the United Kingdom and the Russian Federation.

Members of the Council will be well aware that we are at the moment keeping waiting two ministerial delegations of Member States that had asked to meet with us under the Arria formula, and I am much mindful of our need to get on with that important commitment. That said, I recognize, of course, the rights of members to seek the floor again.

As the representative of Iraq wishes to address the Council after the United States and the United Kingdom, I will give the floor to the representative of the United States.

Mr. Burleigh (United States of America): We are very aware of the time constraints on the Council, and it is with some regret that I feel the need to ask for the floor to respond to some of the statements of the representative of Iraq. But I will be brief.

The blame for Iraq's difficulties in recent years rests solely with the Iraqi leadership. Iraq is not and has not been a victim of aggression by other States. It is Iraq that has attempted literally to erase one of its neighbours. It is Iraq that has launched military aggression against other neighbours. And it is Iraq that has directed violent threats

against nearly all of its neighbours that have not actually been physically targeted.

Within the past three weeks alone, Iraq has aimed violent threats at Turkey, at Saudi Arabia and at Kuwait. The danger of instability lingers in the Gulf region for one central reason: Iraq's manifest aggressive intent towards its neighbours and Iraq's failure to comply with mandatory resolutions of this Council.

Furthermore, it is an indisputable fact that the coalition's recent use of force in Iraq came about only after Iraq's repeated refusal to cooperate with the disarmament requirements stipulated by this Council. In short, Iraq has refused to give up its weapons of mass destruction.

It is also well known and well documented that, within the scope of that limited use of force, coalition forces exercised every possible precaution in order to avoid civilian casualties and collateral damage.

With regard to the no-fly zones, it is also well known that they were created for the express purpose of protecting Iraqi civilians from the depredations of the Iraqi regime and its characteristic policy of employing massive military force against the persons, the homes, the businesses and the mosques of Iraqi civilians.

The Shiites in the south and the Kurds in the north of Iraq have been the primary victims of regime violence in recent years. Indeed, the Iraqi regime's threat to its own civilian population is continuing. Just this weekend there were many reports of Shiite citizens being targeted by the regime, in Baghdad and in the south, following the assassination of a prominent Shiite religious leader.

The no-fly zones also perform an essential early-warning function regarding Iraq's continuing threats to its neighbours. Thus the complaints and statements we have heard from the Iraqi representative today have no standing. The Iraqi regime is itself the perpetrator of calculated ongoing violence against Iraqi civilians. Until that violence stops, the international community, including the United States, must continue to exert every possible effort to protect the citizens of Iraq from their brutal regime and to assist in providing for their basic humanitarian needs through the oil-for-food programme.

Sir Jeremy Greenstock (United Kingdom): The representative of Iraq made certain allegations in his statement concerning the action taken by United States and United Kingdom forces on 16 December 1998 and concerning the legality of the no-fly zones. Let me make a brief further statement.

With regard to the action which began on 16 December, I draw the Council's attention to the statement I made during the debate on that date. The position on the no-fly zones, which the representative of Iraq characterized as illegal, is that they were established to help protect the civilian population in the north and south from repression by the Government of Iraq, in support of Security Council resolution 688 (1991). That repression has been amply detailed in repeated reports by the Special Rapporteur of the Commission on Human Rights, most recently in his September 1998 report, document A/53/433. The no-fly zones are justified under international law by this continuing situation of overwhelming humanitarian necessity, which has been caused solely by the Iraqi regime.

This is not the time to go into detail on the Iraqi Government's continuing repression of its own population, but when fully told, that story will be a horrific one. Any actions taken by my Government in the no-fly zones are taken purely in self-defence and as a direct result of Iraqi threats and attacks.

Mr. Fedotov (Russian Federation) (*interpretation from Russian*): With regard to the discussion which arose late in the meeting, I should like to reaffirm several key elements of our position.

First, Russia has consistently supported the full implementation of the Security Council resolutions on Iraq, which have paved the way for a durable post-crisis settlement in the Persian Gulf.

Secondly, the so-called non-fly zones, to which reference has been made, have nothing to do with the resolutions of the Security Council. The ongoing systematic bombings in those zones, as well as the foreign invasion of the northern part of Iraq, are causing us deep concern. We call upon all concerned to put an end to acts which run counter to the fundamental principles of the Charter of the United Nations and the norms of international law and which, *inter alia*, lead to the death of civilians. Now as never before, we need a responsible approach which would create a favourable atmosphere for the work now going on in the Security Council to resolve the Iraq problem.

Thirdly, meetings such as this one today are aimed at enhancing the transparency of the work of the Security

Council and at making it possible for a broad range of countries to bring their evaluations and ideas to Council members. These evaluations may differ from the views of certain Council members, but we see nothing bad in that. It is the price we pay for the openness of our work.

The President: The representative of Iraq has asked for the floor. I invite him to take a seat at the Council table.

Mr. Hasan (Iraq) (*interpretation from Arabic*): I should like to make several observations with regard to the two statements made by the representatives of the United States of America and of the United Kingdom.

First, we have often heard the shopworn version of events to which they referred, and it does not change the fact that the United States has declared that it will use the right of veto to prevent any resolution aimed at lifting the sanctions imposed on Iraq and that it wants the sanctions, which have so far murdered more than 1.5 million Iraqis and which are still killing them, to remain in effect. Nor does it change the fact that in 1991 the forces of the coalition destroyed Iraqi infrastructures and killed thousands of Iraqi civilians in pursuit of then Secretary of State James Baker's intention to take Iraq back to the pre-industrial age. Was that the aim of the Security Council?

The representative of the United States said that we tried to erase a State. But that State is independent and has been under American protection since 1991. What more is required of Iraq?

As regards the oil-for-food programme, everyone knows that it is temporary and weighed down with bureaucracy. It is also time-consuming: the time lapse between approval of a contract and delivery is more than one year. If we add to that the role of the United States and the United Kingdom in obstructing the contracts, we find that the programme has not been and will not be able to stop the deterioration in the humanitarian situation in Iraq.

As regards the no-fly zones, in 1992 the official United Nations spokesman, Joe Sills, emphasized that the no-fly zones had nothing to do with the United Nations but represented a unilateral action. A few days ago, the United States representative, Ambassador Burleigh, in an interview with the newspaper *Al Hayat*, acknowledged that there are members of the Council who feel that the imposition of such zones is illegal. Today, a permanent member made such a statement.

Is it acceptable for a State that is a permanent member of the Council to use force against an independent State, in contravention of Security Council resolutions and the United Nations Charter? If it does so, should it not pay the same price that it has caused others to pay?

The representative of the United Kingdom insulted the intelligence of those present when he said that their aircraft launch their smart bombs to kill our children in self-defence. He insulted our intelligence when he said that Iraq breached the no-fly zone on 90 occasions. Is it permissible to say that a State violated its own airspace 90 times? Such logic leads to the law of the jungle; it should not be repeated. The United States and the United Kingdom are the last countries that should lecture people on respect for international law and the United Nations Charter, and the last that are entitled to shed crocodile tears over the Iraqi people, whom they massacre every day. This farce should come to an end.

The President: There are no further speakers on my list. The Security Council has thus concluded the present stage of its consideration of the item on its agenda.

The meeting rose at 5.10 p.m.